SUPREME COURT OF THE UNITED STATES.

No. 638.—October Term, 1916.

Inter-Island Steam Navigation Company, Limited, Plaintiff in Error, vs. George E. Ward.	In Error to the United States Circuit Court of Appeals for the Ninth Circuit.

[October 30, 1916.]

Mr. Chief Justice White delivered the opinion of the Court.

On writ of error prosecuted from the court below to a judgment of the Supreme Court of Hawaii rendered in a case where there was no Federal question and no diversity of citizenship, the judgment was affirmed and the case was brought here. By a motion to dismiss, our jurisdiction is disputed and to dispose of it requires a consideration of Section 246 of the Judicial Code as amended by the Act of January 28, 1915 (38 Stat. 803, c. 22).

That amendment provides, first, that "Writs of error and appeals from the final judgments and decrees of the Supreme Court of the Territory of Hawaii and of the Supreme Court of Porto Rico may be taken and prosecuted to the Supreme Court of the United States . . . in the same classes of cases, in which writs of error and appeals from the final judgments and decrees of the highest court of a State in which a decision in the suit could be had, may be taken and prosecuted to the Supreme Court of the United States . . . ." And this is immediately followed by a provision giving power to this court to review by certiorari "in all other cases, civil or criminal, in the Supreme Court of the Territory of Hawaii or the Supreme Court of Porto Rico." The next and separate sentence which follows these provisions and which concludes the amendment is this: "Writs of error and appeals from the final judgments and decrees of the supreme courts of the Territory of Hawaii and of Porto Rico, wherein the amount involved, exclusive of costs, . . . exceeds the value of $5,000, may be taken and prosecuted in the circuit courts of appeals."

The argument supporting jurisdiction is that as by the general provisions of the Judiciary Act of 1891, now embraced in Section 241 of the Judicial Code, power exists in this court to review by error or appeal the final decisions of the circuit courts of appeals in all cases where the jurisdiction of the trial court did not depend upon diversity of citizenship or where the case was not otherwise by provisions of law expressly made final in the circuit courts of appeals, therefore power to review exists since this case is not in one of the excepted classes. But the contention overlooks the fact that from the beginning and continuously up to the adoption of the Amendment of 1915 appeals and writs of error to the supreme courts of Hawaii and of Porto Rico were not left to be controlled by the law generally applicable to courts of the United States as expressed in the Judiciary Act of 1891 or as found in the provisions of the Judicial Code re-adopting that act, but were governed by special provisions controlling the subject—a purpose which is exemplified by the terms of the Amendatory Act of 1915. This is plain when it is considered that the two classes of cases enumerated in the Amendment of 1915 were practically in the same terms expressed in the prior acts which conferred reviewing jurisdiction in both classes exclusively upon this court and that the only substantial change made by the amendatory act was to take from this court the jurisdiction to review in the second enumerated class and confer it upon the Circuit Court of Appeals to which Hawaii belonged. And indeed there is nothing in the context of the statute which countenances the view that the statute intended to merely take away the jurisdiction of this court in one class of cases and at the same time to restore jurisdiction as to the same class by means of a power conferred or contemplated to exist to review on error or appeal the judgments and decrees of the Circuit Court of Appeals. Besides, as the remedy intended to be afforded by the Amendment of 1915 was evidently the restricting of the jurisdiction of this court to the end that the burden on its docket might be lightened, we cannot construe that amendment as frustrating the purpose which it was adopted to accomplish. *American Security Co.* v. *District of Columbia,* 224 U. S. 491, 495.

Dismissed for want of jurisdiction.